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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/748,527

12/29/2003

David Anderman

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10/17/2005

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER

SUKMAN, GABRIEL S

ART UNIT

PAPER NUMBER

3641

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/748,527

Applicant(s)

ANDERMAN ET AL.

Examiner

Gabriel S. Sukman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/7/04; 11/12/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 30-38 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 10, 11, 12, 14, 13, 10, 16 and 18, 15, 19 and 20, respectively, of U.S. Patent No. 6,669,148 B2 to Anderman et al. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claims, where different, merely omit limitations directed to non-essential parts from the claims of the '148 patent. Further, the change from "relies on" to "is configured to obtain" is no more than an obvious alteration of wording in attempting to broaden scope.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 30-36 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,005,786 to Okamoto et al. (hereinafter referred to as Okamoto).

The docking configuration depicted in figures 6 and 7 of Okamoto teach all of the limitations of claim 30. The module (70) has an internal supply for containing materiel, has two docking ports (docking port 76 and the unreferenced docking port for the exposed facility, 71) for simultaneous docking of two elements, wherein the module obtains at least orbital stability from the space shuttle docking element (54), and which necessarily includes electrical interconnects to connect the module (70) with the antenna dish located on the exposed facility (71).

The limitations of claim 31 are taught by the configuration of Okamoto since the module (70) can inherently be unpressurized (being pressurized requires certain structural qualifications while lack of pressurization does not; so a module that is taught to be pressurized is inherently a module that can be unpressurized if the mission so calls for).

The limitations of claims 32 and 33 are taught by the configuration of Okamoto since the module (70) is taught to be a cylindrical pressurized module (col. 8, lines 60-62).

Claim 34 is clearly anticipated by the cylindrical module (70) of Okamoto, which has docking ports at two opposite axial locations.

Claim 35 is anticipated by Okamoto since the module (70) is disclosed as being an experimental module and therefore must have a power subsystem for supplying power.

Claim 36 is anticipated by Okamoto since there must be a communication system at least between the module (70) and the exposed facility docking element since the exposed facility includes an antenna, which must communicate in some way with the module.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okamoto.

Okamoto discloses all of the limitations of claims 37 and 38 except for specifying which element the respective probes and cones are associated with. But upon reviewing the disclosure of Okamoto, it becomes clear that the thrust of the invention is toward the workings of the probe and cone docking port and the specific devices that are docked together with the port are not critical. As such, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make one of the ports on the module a cone port and the other a probe port since such a decision is

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a matter of design choice and routine experimentation in the art. The disclosure of Okamoto is a broad teaching of the uses for the particular probe and cone apparatus and their specific layout is left to be dictated by the specific mission requirements, at which point the design is routine. As per the limitations of claim 38, figure 6 shows the module connected to an intermediate space vehicle (shuttle, 54) at one end and a "space platform" (here, the facility, 71) at the other. As discussed above with respect to claim 30, the module obtains at least orbital stability from the shuttle.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 4,860,975 to Schliesing et al.

U.S. Patent Application Publication No. US 2003/0192995 A1 to Tchoryk et al.

U.S. Patent Application Publication No. US 2004/0245405 A1 to Tchoryk et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabriel S. Sukman whose telephone number is (571) 272-6883. The examiner can normally be reached on M-F, 8:30-6:00, every other Friday off.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone can be reached on (571) 272-6873. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gss



MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER